

CITY OF CATHEDRAL CITY REQUEST FOR PROPOSAL CONSTRUCTION MANAGEMENT AND INSPECTION SERVICES CATHEDRAL CANYON DRIVE BRIDGE AT WHITEWATER RIVER CITY PROJECT NO. 8919 FEDERAL AID PROJECT NO. BR-NBIL(504)

The City of Cathedral City requests proposals from qualified Professional Engineering and/or Construction Management Firms to provide Professional Construction Management services to support construction of the Cathedral Canyon Drive Bridge at Whitewater River, City Project No. 8919, Federal Aid Project No. BR-NBIL(504).

Proposal packages are to be submitted to the City on/or before close of business (6:00 PM) January 31, 2019. Proposals Received after the stated deadline shall not be accepted. Proposal Packages are to be delivered to:

John A. Corella, P.E., Public Works Director / City Engineer 68-700 Avenida Lalo Guerrero Cathedral City, CA 92234

Statement of Intent

Working under the direction of the City's Project Manager, the selected consultant shall provide qualified personnel to perform construction management and other related services for the construction of Cathedral Canyon Drive Bridge at Whitewater River. These services shall include construction surveying, construction inspection services, office contract administration, material testing, and other services as outlined in this scope of work. Survey personnel shall work under the direction of a surveyor licensed by the State of California. Inspection personnel shall be full time and/or on an as-needed basis, and shall provide assistance to, and work under, the direction of the selected consultant's Resident Engineer. Material Testing shall be conducted in a Caltrans certified laboratory by appropriately accredited personnel. Additionally, the selected consultant shall provide qualified personnel to perform a constructability review of the project plans and specifications to identify any potential construction related issues for discussion at the preconstruction conference.

Project Description

The Cathedral Canyon Drive wash through the Whitewater River is located northwest of downtown Cathedral City, on Cathedral Canyon Drive between the West Gate entrance to the Cathedral Canyon Country Club and Cathedral Shores, approximately 0.7 miles north of East Palm Canyon Drive and 0.7 miles south of Dinah Shore Drive.

The Cathedral Canyon Drive Bridge over the Whitewater River Project will construct a new four (4) lane bridge along Cathedral Canyon Drive between the West Gate entrance to the Cathedral Canyon Country Club and Cathedral Shores. The project will add bike lanes and sidewalks on both sides of the road. Construction will include a temporary bypass road, a new bridge, street

reconstruction, improvements to the channel cross section, drainage improvements, slope protection improvements, and a concrete drop structure.

The project will not involve landscaping. The proposed improvements shall meet State standards and requirements. Compliance with permits from the Corps of Engineers, California Department of Fish and Game, the Regional Water Quality Control Board, and others will be required to perform the work. All work and resulting facilities shall fully conform to the requirements set forth by the Federal Highways Administration (FHWA), the State of California Department of transportation (Caltrans), the requirements set forth in the "Greenbook" 2015 Edition, Caltrans Standard Plans and Specifications, 2010 Edition, and the Caltrans Local Assistance Procedures Manual (LAPM). Coordination with the Coachella Valley Water District, Riverside County Flood Control and water Conservation District, Desert Water Agency, Southern California Edison, Charter Spectrum Cable, Frontier FiOS, and others is required. All work and resulting facilities will fully conform to the current adopted Coachella Valley State Implementation Plan (CVSIP) for PM-10 and including Best Management Practices during the construction process.

The project plans and specifications are available for review at the Engineering Department counter at Cathedral City, City Hall or purchased online at:

Planit Printworks: http://www.planitplanroom.com/jobs/public

Special Requirements

Federal Funds. The project is partially funded by Federal Highway Bridge Program (HBP) funds administered through the California Department of transportation (Caltrans). As such, the selected consultant shall comply with the requirements of 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq.; 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments, and Caltrans Local Procedures Manual Processing Procedures for Implementing Federal and/or State Funded Local Public Transportation Projects.

Caltrans Local Assistance Procedures Manual Forms. This RFP contains the following forms, Attachment 1, that must be filled out, signed and submitted with the proposal:

- 1. Exhibit 10-K: Consultant Certification of Contract Cost and Financial Management System, to be submitted with "Detailed Cost Proposal"
- 2. Exhibit 10-O1: Consultant Proposal DBE Commitment, to be submitted with "Work Proposal"
- 3. Exhibit 15-H: *DBE Information Good Faith Efforts*, to be submitted with "Work Proposal" (if necessary)

DBE Participation. This project is subject to Title 49 CFR 26.13(b). The selected consultant, and any sub-consultants shall not discriminate on the basis of race, color, national origin, or sex in the performance of any contract that results from this solicitation. The selected consultant shall carry out applicable requirements of 49 CFR part 26 in the award and administration of DOT – assisted contracts. Failure to carry out these requirements would be a material breach of any contract, and may result in the termination of the contract or such other remedy as the recipient deems appropriate. Attention is directed to the requirements of Exhibit 10-I "Notice to Proposers DBE Information" provided in Attachment 1.

The selected consultant shall take necessary and reasonable steps to ensure that Disadvantaged Business Enterprises have opportunity to participate in the contract (49 CFR 26).

To ensure there is equal participation of the Disadvantaged Business Enterprise (DBE) groups specified in 49 CFR 26.5, the City of Cathedral City has established a DBE Goal of <u>eleven percent</u> (11%) for this project.

The Agreement will require the consultant to meet the DBE Goals shown above or demonstrate that adequate good faith efforts were made to meet this goal with Exhibit 15-H "DBE Information – Good Faith Efforts," provided in Attachment 1. If the DBE Goal provided cannot be met, Exhibit 15-H should be submitted with 10-O1 in the work proposal.

It is each offeror's responsibility to verify that firms are certified as DBE at the date of proposal opening. For a list of DBEs certified by the California Unified Certification Program, go to:

http://www.dot.ca.gov/hg/bep/find certified.htm

Pre-award Audit. In accordance with Caltrans requirements and procedures, the selected consultant's final, negotiated cost proposal will be subject to a pre-award audit by Caltrans and/or the City of Cathedral City. The pre-award audit must be complete and approved by Caltrans prior to the City awarding a contract to the selected Consultant.

It is recommended that interested consultants be familiar with Caltrans' audit procedures including contract audits, incurred cost audits, financial management system reviews, ICR audits, and risks assessments. The successful firm will be asked to provide a completed ICR schedule, prepared in accordance with applicable CFRs, a completed AASHTO Internal Control Questionnaire (ICQ), and a copy of the prior fiscal year and most recently completed fiscal year ICR schedules and audited reports by an independent CPA. Additionally, the successful firm must provide a CPA audited ICR report and copy of the CPA audited financial statements.

Offerors that have successfully completed a pre-award audit with Caltrans within the past twelve months should indicate such approval in their proposal and include a copy of the audit approval letter. If the City elects to conduct the pre-award audit in-house, and the selected consultant has successfully completed an audit within the past twelve months, the City will expect the Consultant to furnish its auditors with the details of the approved audit.

Pre-proposal Conference. A pre-proposal conference will be held on Monday January 14, 2019 at 2:00 p.m. at the City of Cathedral City – City Hall, 68-700 Avenida Lalo Guerrero, Cathedral City, California in the City Council Study Session room. All prospective offerors are encouraged to attend the pre-proposal conference.

Two-part Submittal. This is a two-part submittal. In Envelope No. 1, offerors shall submit written statements of technical qualifications and describe in detail the work plan for completing the work specified in the Request for Proposal. In a separate, sealed Envelope No. 2, offerors shall submit a detailed cost proposal for all services and materials anticipated in completing the project. A detailed cost break-down for each project task and sub-task shall be submitted.

Licensing and Experience Requirements. In addition to the requirements listed in the sections below, proposals shall indicate conformance with the following requirements:

 The designated Resident Engineer (RE) for this project shall be a registered civil engineer licensed by the State of California. The designated RE's experience shall include a minimum of three (3) Caltrans' funded bridge projects comparable to the Cathedral Canyon Drive Bridge at Whitewater River.

- 2. Construction survey services shall be under the direct supervision of a surveyor licensed by the State of California.
- 3. Material testing shall be completed under the supervision of an engineer licensed by the state of California.

Services Requested

Services requested may include, but not be limited to:

Construction Management

- 1. Perform a "third" party constructability review of the project plans and specifications prior to the preconstruction conference and identify potential problems that may need attention before construction starts.
- 2. Review project permit requirements.
- 3. Schedule and attend a field walk with inspector(s), design engineer, and City representatives.
- 4. Schedule and chair a kick off meeting with the City to discuss the proposed work plan and special concerns to be presented at the preconstruction meeting and be present at the Pre-Construction meeting.
- 5. Provide a preconstruction agenda to the City for concurrence, schedule a preconstruction meeting and notify attendees. It is envisioned that the preconstruction meeting will include all interested parties, including utilities, sub-contractors, etc.
- 6. Provide coordination of project activities and prepare reports and documents, as necessary, for City review and action.
- 7. Maintain at the project site, on a current basis: a record copy of all contracts, drawings, specifications, addenda, change orders, and other modifications, in good order and marked to record all changes made during construction; shop drawings, product data; samples; submittal; purchases; materials; equipment; applicable handbooks; maintenance and operating manuals and instructions; other related documents and revisions which are relevant to the contract work.
- 8. Provide weekly status reports to the City as required.
- 9. Contact the Tribal Historic Preservation Office to arrange cultural monitoring.
- 10. Review laboratory, shop, and mill test reports of materials and equipment, and coordinate as required with the design engineer(s).
- 11. Prepare and send a Weekly Statement of Working Days, noting the controlling operations, to the contractor.
- 12. Monitor contractor and sub-contractor compliance with State and Federal labor laws and paperwork requirements including: monitor Contractor's certified payroll; spot check payrolls for prevailing wage compliance; conduct employee interviews; maintain evidence of apprentices employed on the project; and ensure that the contractor has posted all required posters, notices, and wage determinations at the job site.
- 13. Prepare daily/weekly Resident Engineer reports listing the type of work done, controlling operation, weather conditions, important discussions/agreements with the Contractor, and any other important facts pertaining to the project that are not specifically covered elsewhere in the contract records.
- 14. Monitor and document domestic water or sanitary sewer improvements for compliance with the project plans and specifications and for any requirements from Coachella Valley Water District or Desert Water Agency.

- 15. Administer the construction contract in conformance with the requirements set forth in the project plans and specifications including applicable requirements from Caltrans' Standard Plans and Specifications, Local Assistance Procedures, Standard Specifications for Public Works Construction and the City of Cathedral City.
- 16. Receive, log, and respond to contractor Request for Information (RFI).
- 17. Conduct weekly construction progress meetings with the Contractor, Sub-contractors, City Staff, Design Engineer, Sub-consultants, affected outside agencies, general public, business owners, other consultants, etc. to discuss matters such as procedures, progress, problems, and scheduling. Prepare and distribute meeting minutes.
- 18. Review and approve Subcontracting Request forms.
- 19. Coordinate and monitor all inspection activities.
- 20. Maintain an open-door policy and meet with general public as needed regarding the street construction and make recommendations to address their concerns.
- 21. Receive and process all shop drawings, project data, samples, and other submittals to the design engineer for review. Establish and implement procedures for expediting the processing and approval of submittal.
- 22. Coordinate submittal review with the design engineer on an as-needed basis.
- 23. Coordinate with the City Engineer and other City Departments.
- 24. Document all claims and maintain for account records. Provide all necessary documentation and support to the City in settling claims.
- 25. Administer implementation of project's Traffic Control Plan and perform weekly reviews for conformance to approved plan.
- 26. Coordinate and schedule construction surveying.
- 27. Coordinate testing requirements and scheduling of material testing.
- 28. Review and analyze the Contractor's schedule (weekly), including activity sequences and duration, schedule of submittal and schedule of delivery for products with long lead times. Work with Contractor to maintain the project schedule to show current conditions and suggest revisions as required.
- 29. Recommend necessary or desirable changes in the Construction Contractor's scope of work to the City. Review and evaluate the contractor's request for changes. Negotiate with the Contractor and submit recommendations to the City supported by field data related to any additional work. If change orders are accepted by the City, prepare change orders for signature and authorization by the city. Maintain a log of change requests.
- 30. Create and maintain "As-Built" project schedule.
- 31. Review pay requests and provide recommendation for contractor payments.
- 32. Manage contractor DBE requirements.
- 33. Coordinate the Transition of the project to City Maintenance.
- 34. Coordinate any training sessions required for City Staff.
- 35. Conduct regular coordination meetings with property owners and business owners.
- 36. Construction Closeout

The Consultant shall provide the following project closeout services:

- Administer and coordinate final inspections.
- Coordinate the correction and the completion of the work.
- Assist the City in determining when the project, or a designated portion thereof, is substantially complete. Prepare for the City, a summary of the status of the work of the Contractor, listing changes in the previously issued certificates of substantial completion of the work, and recommending the times within which the Contractor shall complete uncompleted items on the certificate of substantial completion of the work.
- Calculate the amount of final payment due to the prime Contractor.
- Obtain evidence of certification of all lien releases.

- Secure and transmit to the City, required guarantees.
- Issue the notice of substantial completion.
- Coordinate any startup requirements.
- Deliver all equipment manuals, special equipment, spare parts, catalogs, and other materials required by specifications.
- Collect all "As-Built" data from all contractors and consultants.
- Make recommendation for the release of retention.
- 37. Provide construction management documents and records to the City.

Inspection (As-Needed)

- 1. Review contract documents, plans, and permits.
- 2. Attend field walks and kick off meetings.
- 3. Attend the pre-construction meeting.
- 4. Monitor and enforce construction noticing requirements, including but not limited to, PM-10 and SWPPP requirements.
- Maintain field diary (bound workbook) during construction, including a cumulative record
 of quantities constructed, daily and weekly reports, working day reports, change order
 documentation, photographs and other documentation. Maintain a separate field diary for
 change order work.
- 6. Monitor the Contractor's fugitive dust control plan and ensure that the Contractor uses approved haul routes and that they are kept clean.
- 7. Ensure compliance with the construction contract by continuously monitoring, evaluating, approving or rejecting the Contractor's work in accordance with the approved construction contract documents.
- 8. Determine that the Contractor's work is being performed in accordance with the requirements of the contract documents. Endeavor to guard the City against defect and deficiencies in the work. As appropriate, require special inspection or testing, or make recommendations to the City regarding special inspection or testing of work not in accordance with the provisions of the contract documents, whether or not such work is fabricated, installed, or completed.
- 9. Provide and maintain a <u>digital photographic history</u> of the progress of the project. Photos will also be taken of the following:
 - a. Showing existing conditions prior to construction.
 - b. Disputed work items.
 - c. Work that has to be duplicated, replaced, or removed.
 - d. Completed work.
 - e. Extra work.
- 10. Record the progress of the project. Maintain a daily log containing a record of weather, the Contractor and Sub-contractors' work on-site, the Contractor and Sub-contractors' equipment on site, number of workers, work accomplished, problems encountered, and other relevant data. Provide copies of daily logs to the City as requested. Include information on the Contractor and the entire project, showing percentages of completion.
- 11. During the course of construction, maintain one set of plans, with markings and dimensions in red ink, to denote field changes or other corrections.
- 12. Ensure ADA compliance.
- 13. Maintain copies of all permits needed to construct the project and enforce special requirements of each.

Material Testing

The Consultant shall be responsible for all of the tests, including the CIDH Pilings as required by the Caltrans Standard Specifications and the Project Special Provisions.

The Geotechnical recommendations and material testing consultant shall perform the materials testing services in accordance with the City's approved Quality Assurance Program (QAP), California Department of Transportation, Construction Manual, "Chapter 3 – Control of Materials" and Chapter 6 – Sample Types and Frequencies." The Geotechnical and Materials Testing Consultant shall provide for initial "Samples and Tests" on materials proposed for use in the project. The Consultant shall provide for "Acceptance Tests" on materials that will be incorporated into the work. Sampling should begin as soon as material is delivered or is in place. Consultant shall continue sampling as work progresses.

- 1. The Consultant shall conduct all testing in a Caltrans Certified Laboratory, or equivalent. All sampling and testing shall be done by personnel and laboratory with the appropriate accreditation for the testing and sampling designated to perform. Proof of the appropriate accreditation shall be submitted for approval by the City.
- 2. Provide a qualified technician as necessary to conduct density tests on roadway subgrade, aggregate base, asphalt concrete, slope fill and trench backfill placement as required. The tests will be performed with a nuclear densometer in accordance with ASTM D2922 or sand cone in accordance with ASTM D1556. Maximum density curves (ASTM D1557) will be performed on various material types as they are encountered. Marshall density tests will be performed on the asphalt concrete placed.
- 3. Provide an ACI-certified technician as necessary to make sets of concrete cylinders asneeded and perform slump tests for the curb, gutter, concrete drainage devices, channel slope paving and other minor concrete.
- 4. Perform compression strength tests on concrete cylinders in accordance with ASTM C39 for bridge structure concrete.
- 5. Perform extraction/gradation tests in accordance with ASTM D2172/C136 on the asphalt concrete placed.
- 6. The Consultant shall keep records of all samples and tests in the project files as permanent job records. Materials incorporated into the project, represented by failing tests, must be documented in the project files also. Test results shall cite applicable contract requirements, test and/or analytical procedures used. Provide actual results and include a statement that the item tested or analyzed conforms or fails to conform to specified requirements. Test results shall be signed by a testing laboratory representative authorized to sign certified documentation and forward to the City.
- 7. Testing Plan and Log shall be maintained by the Consultant. The QC Manager shall record on the "Test Plan and Log" the date the test was conducted, the date test results were forwarded to the Engineer, remarks and acknowledgement that an accredited, or Engineer approved, testing laboratory was used. A copy of the updated "Test and Log" to the last daily Contract Quality Control Report of each month.
- 8. Rework Items list shall be maintained by the Consultant of work performed that does not comply with the contract. The Contractor shall be responsible for including on this list, items needing rework including those identified by the Engineer.
- 9. Maximum density tests shall be performed at the job-site, unless otherwise approved by the City Engineer.
- 10. Acceptance tests of the CIDH concrete piles shall be made by the Consultant. Acceptance tests will evaluate the homogeneity of the placed concrete. Tests shall include gammagamma logging. Tests may also include cross-hole sonic logging and other means of inspection selected by the Engineer.

- 11. The Consultant shall keep records of all samples and tests in the project files as permanent job records. Materials incorporated into the project, represented by failing tests, shall also be documented in the project files.
- 12. The Consultant shall use the most economical mode of transportation available consistent with the time element involved.
- 13. Project Certification The Consultant shall send a materials certification memorandum to the City Engineer, City of Cathedral City, upon the completion of the project; File a copy of the memorandum in the job files; Note all non-conforming materials on the memorandum. This includes materials accepted at reduced pay factors.
- 14. A California licensed engineer shall sign the materials certification memorandum.
- 15. Any non-compliance results of materials shall be reported to the City's Construction Administrator and the City Project Inspector within twenty-four (24) hours from the time of sampling.
- 16. Any non-compliance results of materials shall be reported to the City's Construction Manager within twenty-four (24) hours from the time of sampling.

Construction Surveying

The Construction Surveyor shall perform services in accordance with the California Department of Transportation, Survey Manual, Chapter 12. The Construction Surveyor shall establish "control stakes" for basic line and grade for construction. The Construction Inspector shall check the work for contract compliance using the control stakes. The Construction Surveyor shall use the tolerances established in the Caltrans Survey Manual. Contract requirements, regarding lines and grades and construction stakes and marks, are included in the Contract Standard Specifications. Additional contractual requirements may be shown on the plans or included in the special provisions for the work.

Accuracy. The Consultant shall use appropriate surveying methods to obtain the following standards: For fixed works (i.e. cast-in-place concrete; asphalt pavement, pipes and drains; and other items determined by the Engineer) the following survey standards shall be used. The absolute horizontal accuracy, in relationship to the Engineer's control, shall be such that the semi-major axis of its 95% error ellipse is ± 0.015 foot or less. The absolute vertical accuracy, in relationship to the Engineer's control, shall be such that its standard deviation is ± 0.015 foot or less. The relative horizontal accuracy of survey points within the project shall be such that the semi-major axis of its 95% error ellipse is ± 0.015 foot or less. The relative vertical accuracy of survey points within the project shall be such that its standard deviation is ± 0.015 foot or less.

For excavation purposes, the following standards shall be used. The absolute horizontal accuracy, in relationship to the Engineer's control, shall be such that the semi-major axis of its 95% error ellipse is ± 0.1 foot or less. The absolute vertical accuracy, in relationship to the Engineer's control, shall be such that its standard deviation is ± 0.1 foot or less. The relative horizontal accuracy of survey points within the project shall be such that the semi-major axis of its 95% error ellipse is ± 0.1 foot or less. The relative vertical accuracy of survey points within the project shall be such that its standard deviation is ± 0.1 foot or less.

Products to be rendered in performing all survey work associated with the project may include, but are not limited to the following:

- 1. Survey Control: Will be sufficiently marked and will be preserved and protected.
- 2. Slope Stakes: (A) One set of offset / slope stakes set at intervals established by the Resident Engineer and at all horizontal and vertical curves for areas requiring site grading and slope construction marked with cut or fill to proposed elevation. (B) One set of sub-

- grade line and grade stakes for roadway improvements at stations established by the Resident Engineer.
- 3. **Intermediate Slope Stakes:** The resident Engineer in cooperation with the Construction Contractor's Surveyor will determine the requirements.
- 4. **Toe of Slope Stakes:** One set of top of sub-grade line and grade stakes at same intervals required for toe of slope stakes.
- 5. **Final Grade Stakes:** One set of final grade stakes shall be provided for each grading plane. This one set of final grade stakes will control all elements of the structural section (the grading plane, sub-base, base, and pavement).
- 6. **Major Structures Stakes:** Ground: The extent of the construction stakes for bridge construction will vary depending on the complexity of the structure and its construction. The Construction Survey Contractor in cooperation with the Resident Engineer, and the Structure Representative, will determine the actual staking to be provided.
- 7. **Stakes set for Footings** (Bents, Abutments, Wingwalls): Two reference points, each with marker stake that provide elevation, distance and line references for the controlling lines. A third stake, for "line only," is set when required by the construction conditions, as determined by the Construction Survey Contractor in cooperation with the Structure Representative and the Resident Engineer.
- 8. **Major Structure Stakes:** Superstructure: The Construction Survey Contractor in cooperation with the Structure Representative and the Resident Engineer will determine the actual staking to be provided.
- 9. **Curb Stakes:** One set of stakes may be used for several purposes, such as slopes, final grades, and curbs.
- 10. **Utility Stakes:** Stakes set for sewer, water, and minor drainage structures; pipes and similar facilities.
- 11. **Minor Structure Stakes:** Minor structure stakes shall be set for sign bases, lighting and signal foundations, other foundations, and similar miscellaneous structures.
- 12. **Miscellaneous Stakes:** The Resident Engineer shall in coordination with the Construction Survey Contractor to determine the requirements for the City to provide stakes for contour grading, channels, dikes, ditches, signs, subsurface drains, over-side drains, markers, railings, barriers, AC dikes, box culverts, and pavement markers.
- 13. **Monument Ties and Replacement:** Ties to existing survey monuments of record which may be lost due to new construction shall be performed for preservation and shall be replaced pursuant to California State Law. Prepare and file with Riverside County Surveyor's Office and the Caltrans Survey Department, the necessary documentation required in association with preserving and replacing any destroyed survey monuments.
- 14. Corner Record Preparation: Prepare and file with the Riverside County Surveyor's Office the necessary documentation required in association with preserving and replacing any destroyed survey monuments.
- 15. Office Calculations and Supervision: Calculations shall be prepared as necessary to provide the field survey crews with data as needed for staking and supervision as required.

Public Information Website

Provide and make accessible to the general public, a webpage on a generally accepted social networking site, such as Facebook, dedicated to the Cathedral Canyon Drive Bridge at Whitewater River. The webpage will be used to keep the general public informed of the status of the project. The selected consultant shall coordinate with the City to provide links from the social networking site to and from the City's Webpage. Offerors shall include a description of the format, content, and update frequency of the public information website in their proposal.

In conjunction with the website, consultant shall install and maintain a construction webcam to stream real time video of the bridge construction.

The above services and products represent a general list of the project components. The Consultant is expected to prepare a detailed scope of work based upon its knowledge and experience on related projects.

Proposal Format

Proposals (Work proposal and cost proposal) are to be submitted in separate envelopes clearly marked with the consultant's name, address, and phone number. Only one proposal per offeror will be considered.

Proposal packages are to be submitted to the City on/or before close of business (6:00 PM) January 31, 2019. Proposals received after the stated deadline shall not be accepted. Proposal packages are to be delivered to:

John A. Corella, P.E., Public Works Director / City Engineer 68-700 Avenida Lalo Guerrero Cathedral City, CA 92234

Offerors are encouraged to keep the proposals brief and relevant to the specific work required. Proposals shall include the following items:

1. Work Proposal (Envelope 1) – Submit Five Copies

A. Cover Letter

- (1) The name, address, and phone number of the contact person for the remainder of the selection process.
- (2) Any qualifying statements or comments regarding the proposal, the information provided in the RFP or the proposed contract.
- (3) Identification of sub-consultants and their responsibilities.

B. Statement of Qualifications

- (1) A listing of proposed project personnel, including personal experiences and individual resumes for prime and sub-consultants.
- (2) Offeror and sub-consultant experience with similar work, including names and current phone numbers of references for listed projects.

C. Project Understanding and Approach

Provide a description of your understanding of the Cathedral Canyon Drive Bridge at Whitewater River, and your approach to managing, staffing, and completing the project.

D. Scope of Work Program

Provide a description of the work objectives (tasks, sub-tasks, and deliverables) that will be provided.

E. Consultant Proposal DBE Commitment / Good Faith Efforts

Provide a completed and signed Exhibit 10-O1 "Consultant Proposal DBE Commitment" to demonstrate that you are committed to meeting the City of Cathedral City's DBE Goal as instituted in the **DBE Information** section above. If the Contractor is unable to meet the goal, provide a completed Exhibit 15-H "DBE Information – Good Faith Efforts" to demonstrate the good faith effort made to meet the goal. Exhibit 10-O1 and Exhibit 15-H are provided in Attachment 1.

2. Cost Proposal (Envelope 2) - Submit One Copy

A. Detailed Cost Proposal

This contract will be reimbursed at actual cost plus fixed fee. In a separate, sealed envelope, the Consultant shall submit a detailed cost proposal for all services and materials anticipated in completing the project. Cost Proposals shall be prepared to follow the order and format of the work objectives listed in the "Scope of Work Program." Cost proposals shall, as a minimum, show all anticipated prime and sub-consultant costs by task and sub-task, including personnel by classification, hours, and hourly billing rates. Other direct costs shall be summarized at the project level, rather than by task.

A cost break-down for each project task and/or sub-task shall be defined.

B. Professional Service Rate Sheets

- (1) Include a list of all personnel by classification, and hourly billing rates with effective dates. See Attachment 2 for the required format of the Professional Services Rate Sheet. The rate sheet shall include your audited Indirect Cost Rate (ICR) broken down into rates for fringe benefits, overhead, and general administration. The rate sheet shall also include your proposed fee. Any proposed travel and/or markups on outside services should be noted. The rate sheet shall note if there are any changes, or not, to the proposed rate(s) over time.
- (2) The project is subject to State and Federal prevailing wages. Consultants shall not pay less than the maximum prevailing wage between the State and Federal wage determinations for the same classifications.

C. Consultant Certification of Contract Costs and Financial Management System

Cost Proposals shall include an executed Exhibit 10-K "Consultant Certification of Contract Costs and Financial Management System" for the prime and all subconsultants. A copy of Exhibit 10-K is included in Attachment 1. Due to Federal contract provisions, no contract will be awarded to a consultant without an adequate financial management system, as required by 48 CFR Part 16.301-3, 49 CFR Part 18, and 49 CFR Part 31.

Selection Process

Proposals will be reviewed by a Consultant Selection Committee. The Committee will rank the consultants for contract negotiations based upon the materials submitted. A copy of the proposal evaluation form is provided in Attachment 3. The Committee may, or may not, choose to interview two or more closely – related firms, but will not expect or schedule time for elaborate presentations. Cost proposals will be opened only after the ranking process is complete.

The City will open contract negotiations with the top-ranked firm. The successful consultant will be expected to enter into the attached Professional Construction Management Services Agreement (PCMSA), Attachment 4.

Should negotiations with the top-ranked firm dissolve, the City of Cathedral City will open the Cost Proposal and begin contract negotiations with the second ranked firm, and so forth until an agreement is reached.

The City reserves the right to waive informalities and to reject all proposals at its sole discretion. Consultants are encouraged to keep the proposals brief and relevant to the specific work required.

Schedule

Anticipated consultant selection schedule shall be as follows:

Submittal of Questions Wed. Jan. 16, 2019
Response to Questions Tues. Jan. 22, 2019
Proposal Due Date Thurs. Jan. 31, 2019

Proposal Review/Evaluation
Interview finalists (if needed)
Negotiation of Contract
Caltrans Reviews

Mon. Feb. 4 – Thurs. Feb. 14, 1029
Mon. Feb. 18 – Wed. Feb. 20, 2019
Mon. Feb. 25 – Thurs. Feb. 28, 2019
Mon. Mar. 4 – Fri. Apr. 26, 2019

Award of Contract Thurs. May 9, 2019

Attachments:

Attachment 1: Caltrans/Federal Forms.

• Exhibit 10-I Notice to Proposers DBE Information

Exhibit 10-K Consultant Certification of Contract Costs & Financial Management System

Exhibit 10-O1 Consultant Proposal DBE Commitment

• Exhibit 15-H DBE Information – Good Faith Efforts

Attachment 2: Professional Services Rate Sheet

Attachment 3: Proposal Evaluation Form

Attachment 4: Professional Construction Management Services Agreement (PCMSA)

ATTACHMENT 1

CALTRANS/FEDERAL FORMS

•	Exhibit 10-I	Notice to Proposers DBE Information

- Exhibit 10-K Consultant Certification of Contract Costs & Financial Management System
- Exhibit 10-O1 Consultant Proposal DBE Commitment
- Exhibit 15-H DBE Information Good Faith Efforts

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 11	9/	6
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1. TERMS AS USED IN THIS DOCUMENT

- The term "Disadvantaged Business Enterprise" or "DBE" means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term "Agreement" also means "Contract."
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term "Small Business" or "SB" is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs"). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 Consultant Proposal DBE Commitment must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 Consultant Contract DBE Information must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer's responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department's DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.

- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: http://www.dot.ca.gov/hq/bep/.
 - 1. Click on the link titled *Disadvantaged Business Enterprise*;
 - 2. Click on Search for a DBE Firm link;
 - 3. Click on Access to the DBE Query Form located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk

- items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.
- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

EXHIBIT 10-K CONSULTANT ANNUAL CERTIFICATION OF INDIRECT COSTS AND FINANCIAL MANAGEMENT SYSTEM

(Note: If a Safe Harbor Indirect Cost Rate is approved, this form is not required.)

Consultant's Full Legal Name:		
services as a party of a contract	he individual or consultant providing engineering and d with a recipient or sub-recipient of Federal assistance. T e combined with its parent company or subsidiaries.	
Indirect Cost Rate:		
Combined Rate	% OR	
Home Office Rate	% and Field Office Rate (if applicable)	%
Facilities Capital Cost of Money	% (if applicable)	
Fiscal period *		
* Fiscal period is annual one year	applicable accounting period that the Indirect Cost Date	o waa dayalaa ad (

* Fiscal period is annual one year applicable accounting period that the Indirect Cost Rate was developed (not the contract period). The Indirect Cost Rate is based on the consultant's one-year applicable accounting period for which financial statements are regularly prepared by the consultant.

I have reviewed the proposal to establish an Indirect Cost Rate(s) for the **fiscal period** as specified above and have determined to the best of my knowledge and belief that:

- All costs included in the cost proposal to establish the indirect cost rate(s) are allowable in
 accordance with the cost principles of the Federal Acquisition Regulation (FAR) 48, Code of
 Federal Regulations (CFR), Chapter 1, Part 31 (48 CFR Part 31);
- The cost proposal does not include any costs which are expressly unallowable under the cost principles of 48 CFR Part 31;
- The accounting treatment and billing of prevailing wage delta costs are consistent with our
 prevailing wage policy as either direct labor, indirect costs, or other direct costs on all federallyfunded A&E Consultant Contracts.
- All known material transactions or events that have occurred subsequent to year-end affecting the
 consultant's ownership, organization, and indirect cost rates have been disclosed as of the date of
 this certification.

I am providing the required and applicable documents as instructed on Exhibit 10-A.

Financial Management System:

Our labor charging, job costing, and accounting systems meet the standards for financial reporting, accounting records, and internal control adequate to demonstrate that costs claimed have been incurred, appropriately accounted for, are allocable to the contract, and comply with the federal requirements as set forth in <u>Title 23</u> <u>United States Code (U.S.C.) Section 112(b)(2)</u>; <u>48 CFR Part 31.201-2(d)</u>; <u>23 CFR, Chapter 1, Part 172.11(a)(2)</u>; and all applicable state and federal rules and regulations.

Our financial management system has the following attributes:

- Account numbers identifying allowable direct, indirect, and unallowable cost accounts;
- Ability to accumulate and segregate allowable direct, indirect, and unallowable costs into separate cost

accounts;

- Ability to accumulate and segregate allowable direct costs by project, contract and type of cost;
- Internal controls to maintain integrity of financial management system;
- Ability to account and record costs consistently and to ensure costs billed are in compliance with FAR:
- Ability to ensure and demonstrate costs billed reconcile to general ledgers and job costing system; and
- Ability to ensure costs are in compliance with contract terms and federal and state requirement

Cost Reimbursements on Contracts:

I also understand that failure to comply with 48 CFR Part 16.301-3 or knowingly charge unallowable costs to Federal-Aid Highway Program (FAHP) contracts may result in possible penalties and sanctions as provided by the following:

- Sanctions and Penalties 23 CFR Part 172.11(c)(4)
- False Claims Act Title 31 U.S.C. Sections 3729-3733
- Statements or entries generally <u>Title 18 U.S.C. Section 1001</u>
- Major Fraud Act <u>Title 18 U.S.C. Section 1031</u>

 All A&E Contract Information: Total participation amount \$\sum_{\text{Engineering services}}\$ that the consultant : The number of states in which the consultant : 	_
 Years of consultant's experience with 48 	3 CFR Part 31 is
 Audit history of the consultant's current a Cognizant ICR Audit 	and prior years (if applicable) Local Gov't ICR Audit Caltrans ICR Audit
☐ CPA ICR Audit	☐ Federal Gov't ICR Audit
Indirect Cost Rate Schedule to determine that any principles have been removed and comply with Tirall applicable state and federal rules and regulation compliance must be retained by the consultant. I have federal and state requirements are not eligible for	
Name**: Signature:	
Email**:	
**An individual executive or financial officer of the cons Chief Financial Officer, or equivalent, who has authority to	sultant's or subconsultant's organization at a level no lower than a Vice President, a to represent the financial information used to establish the indirect cost rate.

Note: Both prime and subconsultants as parties of a contract must complete their own Exhibit 10-K forms. Caltrans will not process local agency's invoices until a complete Exhibit 10-K form is accepted and approved by Caltrans Audits and Investigations.

Distribution: 1) Original - Local Agency Project File

2) Copy - Consultant

3) Copy - Caltrans Audits and Investigations

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency:	City of Cathedral City		2. Contract DBE Goal: 11%			
3. Project Description:	Cathedral Canyon	Drive Bridge over Whit	ewater River			
4. Project Location: Ir	n Riverside County, in	n the City of Cathedral	City, along Cathedral Canyon Dr. at Wh	itewater River		
5. Consultant's Name:			6. Prime	Certified DBE:		
	ork, Service, or Materials applied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %		
Local	Agency to Complete thi	s Section				
17. Local Agency Contra	act Number:		11. TOTAL CLAIMED DBE PARTICIPATION	%		
18. Federal-Aid Project	Number:		THE SEATING SEE FACTOR ATTOM			
19. Proposed Contract E	execution Date:					
Local Agency certifies the this form is complete and		re valid and information on	IMPORTANT: Identify all DBE firms being claim regardless of tier. Written confirmation of each li required.	ed for credit, sted DBE is		
20. Local Agency Repre	sentative's Signature	21. Date	12. Preparer's Signature 13. Da	ate		
22. Local Agency Rep	resentative's Name	23. Phone	14. Preparer's Name 15. Ph	ione		
24. Local Agency Rep	resentative's Title		16. Preparer's Title			

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

INSTRUCTIONS - CONSULTANT PROPOSAL DBE COMMITMENT

CONSULTANT SECTION

- 1. Local Agency Enter the name of the local or regional agency that is funding the contract.
- 2. Contract DBE Goal Enter the contract DBE goal percentage as it appears on the project advertisement.
- **3. Project Description** Enter the project description as it appears on the project advertisement (Bridge Rehab, Seismic Rehab, Overlay, Widening, etc.).
- 4. Project Location Enter the project location as it appears on the project advertisement.
- 5. Consultant's Name Enter the consultant's firm name.
- 6. Prime Certified DBE Check box if prime contractor is a certified DBE.
- 7. Description of Work, Services, or Materials Supplied Enter description of work, services, or materials to be provided. Indicate all work to be performed by DBEs including work performed by the prime consultant's own forces, if the prime is a DBE. If 100% of the item is not to be performed or furnished by the DBE, describe the exact portion to be performed or furnished by the DBE. See LAPM Chapter 9 to determine how to count the participation of DBE firms.
- **8. DBE Certification Number** Enter the DBE's Certification Identification Number. All DBEs must be certified on the date bids are opened.
- 9. DBE Contact Information Enter the name, address, and phone number of all DBE subcontracted consultants. Also, enter the prime consultant's name and phone number, if the prime is a DBE.
- 10. DBE % Percent participation of work to be performed or service provided by a DBE. Include the prime consultant if the prime is a DBE. See LAPM Chapter 9 for how to count full/partial participation.
- 11. Total Claimed DBE Participation % Enter the total DBE participation claimed. If the total % claimed is less than item "Contract DBE Goal," an adequately documented Good Faith Effort (GFE) is required (see Exhibit 15-H DBE Information Good Faith Efforts of the LAPM).
- 12. Preparer's Signature The person completing the DBE commitment form on behalf of the consultant's firm must sign their name.
- 13. Date Enter the date the DBE commitment form is signed by the consultant's preparer.
- **14. Preparer's Name** Enter the name of the person preparing and signing the consultant's DBE commitment form.
- 15. Phone Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- 16. Preparer's Title Enter the position/title of the person signing the consultant's DBE commitment form.

LOCAL AGENCY SECTION

- 17. Local Agency Contract Number Enter the Local Agency contract number or identifier.
- 18. Federal-Aid Project Number Enter the Federal-Aid Project Number.
- 19. Proposed Contract Execution Date Enter the proposed contract execution date.
- **20.** Local Agency Representative's Signature The person completing this section of the form for the Local Agency must sign their name to certify that the information in this and the Consultant Section of this form is complete and accurate.
- 21. Date Enter the date the DBE commitment form is signed by the Local Agency Representative.
- **22.** Local Agency Representative's Name Enter the name of the Local Agency Representative certifying the consultant's DBE commitment form.
- 23. Phone Enter the area code and phone number of the person signing the consultant's DBE commitment form.
- **24.** Local Agency Representative Title Enter the position/title of the Local Agency Representative certifying the consultant's DBE commitment form.

EXHIBIT 15-H DBE INFORMATION —GOOD FAITH EFFORTS

DBE INFORMATION - GOOD FAITH EFFORTS

Federa	ıl-aid Pro	ject No. BR-NBIL(504)	Bid	Opening Date	
	ty of Cathed		established a Disadvanta	ged Business Enterprise (DBE) goal of a good faith effort was made.	
Lowes good fa Comm award	t, second aith effor itment" f of the co	lowest and third lowest b ts. Bidders should submit form indicates that the bid ntract if the administering	idders shall submit the fo the following information der has met the DBE goal agency determines that t	llowing information to document adequate even if the "Local Agency Bidder DB. This will protect the bidder's eligibilities bidder failed to meet the goal for varidder made a mathematical error.	E ty for
Submit to dem	ttal of on	ly the "Local Agency Bide that adequate good faith e	der DBE Commitment" forforts were made.	orm may not provide sufficient docume	ntation
The fol Provisi	llowing it	tems are listed in the Secti	ion entitled "Submission	of DBE Commitment" of the Special	
A.				quest for DBE participation for this rtisements or proofs of publication):	project
		Publications		Dates of Advertisement	
B.	the date	es and methods used for	following up initial sol	d DBEs soliciting bids for this project icitations to determine with certainty s of solicitations, telephone records,	I
	Nam	es of DBEs Solicited	Date of Initial Solicitation	Follow Up Methods and Dates	
9					
8					
=					

C.	any breaking down of the conbidder with its own forces) in the bidder's responsibility to a made available to DBE firms.	ntract work items (inclute economically feasily demonstrate that suffice	uding those items ble units to facilita	normally per ate DBE parti	formed by the cipation. It is
=	Items of Work	Bidder Normally Performs Item (Y/N)	Breakdown of Items	Amount (\$)	Percentage Of Contract
D.	The names, addresses and phorejection of the DBEs, the firm firms involved), and the price	ms selected for that wo	ork (please attach	copies of quo	tes from the
	Names, addresses and phone of the DBEs:	numbers of rejected D	BEs and the reaso	ns for the bid	lder's rejection
	Names, addresses and phone i	numbers of firms selec	eted for the work a	above:	
	Efforts made to assist interested technical assistance or information work which was provided to I	ation related to the pla			

F.	Efforts made to assist interested DBEs in obtaining necessary equipment, supplies, materials or related assistance or services, excluding supplies and equipment the DBE subcontractor purchases or leases from the prime contractor or its affiliate:
G.	The names of agencies, organizations or groups contacted to provide assistance in contacting, recruiting and using DBE firms (please attach copies of requests to agencies and any responses received, i.e., lists, Internet page download, etc.):
	Name of Agency/Organization Method/Date of Contact Results
Н.	Any additional data to support a demonstration of good faith efforts (use additional sheets in necessary):

NOTE: USE ADDITIONAL SHEETS OF PAPER IF NECESSARY.

ATTACHMENT 2

PROFESSIONAL SERVICES RATE SHEET

Please Note: Consultant completes all items in yellow highlight

CONSULTANT

EXHIBIT 10-H4 COST PROPOSAL FOR CONTRACTS WITH PREVAILING WAGES ACTUAL COST PLUS FIXED FIX

CONTRACT TYPE

																									1	(LIST CIVE OF THE ABOVE LISTED CONTRACT TYPES)	אם אמת אם ב	STED CONT	KACI IYPE	8)				
PROJECT NO.			CONTRACT NO.	90.					DATE	ju.								Prime	Prime Consultant's Perticipation Amount	Perticipation	A Amount			1										
Loaded Rate Calculation																							E	ome Office Parsonne	MINORING	Frin	ringe Benink	beerheed &	% pag	Ser		instration %	Com	Combined %
Non Exemply sent Louis Filling Relies A) Steady Timps = Actual Houry Rate * (1 + Field O.H.) * (1 + Field + Date Rate) * Date Brook * D	Hourly Rate * (5	Rafes 1 + Fleid O.H.)*	(1 + Fee) + De	Ma Basa	* (Anniloshin	. Meditolise I	Jeda Rosel	Palle	A A see	Southle Made	Julian Paul	100								T			zöl	OVERTIME		88	60 00% 60.00%		%00	++	60.00%	* 11		180.00%
1) 1 55 of St. Comming and Control and Con	d Billing Refes	(Rate) (1 Fis	HOH) -(1-	Emi + S	Soci DX (Ac	The Hourty	Rate + De	ta Bene 1/6	Ampleant	Mulliplier L	laffa Basa	- Della	ringe " (A	policatie.)	Multiplier D.	ella Finnae							ĽŽ.	VORMAL	ersonnel	Fire 80	60 00% +	0	% peo %	Gen	50 co.	atton %	Com	Combined %
C Straight Time or 1.5X or 2.0X Overtime = Actual Hourly Rate * (1 + Field O.H.) * (1 + Fee) + Delta Base a * (Apriliable Multiple Delta Base) + Delta Fringe * (Apriliable Multiple Delta Fringe)	r 2.0X Overtime	s = Actual Hourly	Rate 11 + Fig.	HO PA	* (1+Fee) +	Delta Base	Applicat	ale Multiple	Y Delta Bat	se + Defta	i again	Applicable	Multiplier	Delta Frin	(40)								<u> </u>	OVERTIME		8	100	+ 20 00	* 01	4	50,00%	8		150.00%
The PW differentials Data Base and Data Fringe shown in the formulas above for Loaded Billing Rates are applicable only when performing services covered under DIR determinations.	Base and Delta	Fringe shown in	the formulas &	spove for	Loaded Billin	ng Rates are	epplicable	only when p	serforming	Services or	wared unk	for DIR de	terminatio	TS.						1			J					ŀ		Policebie N	Applicable Mulipher Deta Hess	Meta (Flaid	i	6.00%
	Home				1				47											-										Applica	Applicable (Authority Frings	Prings (Flaid		000
Name/Classification	Office	Effective Date of Hourly Rate	Date of Rate		(only applicable for prevailing wage work)	evaling wage kare acceptaned by State U (only applicable for prevailing wage work)	preveiling	wage work	ž o		£	(fringe bene	nployes Actual Rate mefits very year over	sployes Actual Rate metits very year over year)	(Jear)		Employe	DELTA (TOTAL) = Employee Total Rate - DIR		PC	DELTA (BASE) * Employee Base -		DEL	DELTA Besse #		DELTA TOTAL - DELTA	TAL - DEL		wheel House	control Hoursty Billing Dates		% Hourty Rate		
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John Doe BBCE, Construction Inspector	FIELD	01/01/2007	12/31/2007	\$34.21	\$51.32							\$83.26 \$84.34 \$85.16 \$86.88	4 \$11 49 8 \$11.49	\$53.86		\$96.83		\$8.02 \$6.92	\$12.00		\$11.94	\$15,92						50. \$111.76					71.27	MIN
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John Doe BSCE, Construction inspector	FIELD	01/04/2007	12/31/2007														80.08	90	8										-	-		-		
Non-Prevailing Wage Work (fron-Exempl)		01/01/2008 01/01/2009 01/01/2010	12/31/2008 12/31/2009 12/31/2010														\$0.00 \$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00 \$0.00	\$0.00 \$0.00 \$0.00	N/A	NA N	N/A	N/A	NA	N/A	N/A	N/A	N/A \$115.12 \$118.56 \$122.11			\$156.56 3.00% \$156.30 3.00% \$168.19 3.00%		43.44	NUA
Jane Smith BSCE, PE Asst REInspector	FIELD	01/04/2007	12/31/2007 \$34.21	\$34.21	\$51.32							\$45.00 \$45.00	\$11.46	\$56.49				(\$10.24)	(\$27.34)	\$0.00	(\$6.32) (4	\$23.42)	_	\$6.32) (\$	\$23.42)		\$3.92)	\$3.92)		5125.57	2442.07		8	
Prevaling Wage Work		01/01/2009	12/31/2009 \$34.21 12/31/2010 \$34.21		\$51.32 \$51.32 \$61.32 \$61.32	\$68.42 \$15 \$68.42 \$15 \$68.42 \$15	\$15.41 \$49.62 \$15.41 \$49.62 \$15.41 \$49.62	.62 \$66.73 .62 \$66.73	E E E E	83 \$47.74 83 \$40.17		\$46.36 \$46.35 \$47.74 \$47.74 \$49.17 \$49.17	5 \$11 40 7 \$11 49 7 \$11 49	\$57.84 \$59.23 \$80.86	\$57.84 \$59.23 \$80.66	\$57.84 \$50.23 \$60.66	\$8.22	(\$6.88) (\$7.49) (\$6.06)	(\$25.89) (\$24.60) (\$23.17)	\$0.00 \$0.00 \$0.00	(\$4.97) (\$3.58) (\$2.15)	(\$22.07) (\$20.68) (\$19.26)		\$2.15) (\$	(\$22.07) (\$20.68) (\$19.25)	00.03		(\$3.92) \$122.83 (\$3.92) \$126.51 (\$1.92) \$130.30		_	\$144.90 3.00% \$147.19 3.00% \$149.55 3.00%		46.35	¥.

Profit of Was as practiced are beared on current DIR cheeratein in choose interest.

The difference is the choose of the choose

ATTACHMENT 3

PROPOSAL EVALUATION FORM

PROPOSAL EVALUATION FORM

Project Name:			
Consultant:			
Reviewer:	_	Date:	
Refer to Scoring Breakdown on next sheet.			
Understanding of work to be done	30		
Experience with similar kinds of work	25		
Quality of staff for work to be done	20		
Familiarity with State and Federal procedures	15		
Format/Organization	10		
Total	100		
Comments:			
			_
			_
		TOTAL	_
Reviewer's Signature			
Contract Administrator's Initials Data			

Scoring Breakdown:

Understanding of work to be done - 30 points maximum

- 0-15: Scope of work is off topic or is missing more than 5 key elements.
- 16-25: Scope of work is understandable but missing a few key elements.
- 26-30: Scope of work well justified and most or all key elements are included.

Experience with similar kinds of work - 25 points maximum

- 0-10 points: Consultant does not include previous experience or has very minimal experience.
- 16-20 points: Consultant lists previous experience, but experience is not relevant or similar.
- 21-25 points: Consultant lists relevant previous experience with similar work.

Quality of staff for work to be done - 20 points maximum

- 0-8 points: Resumes not included or staff has little to no experience with similar project.
- 9-15 points: Staff list includes resumes but experience is not relevant or similar.
- 16-20 points: Staff has relevant experience and is competent to perform scope requested.

Familiarity with State and Federal Procedures - 15 Points Maximum

- 0-4 points: Zero to little previous Federal and State project experience
- 5-10 points: Federal and State experience but not on similar work.
- 11-15 points: Relevant Federal and State Experience.

Format/Organization - 10 points maximum

- 0-4: Scope of work is not or barely organized into tasks and subtasks, does not flow clearly.
- 5-7: Scope of work is organized into tasks and subtasks, but not in a clear logical order.
- 8-10: Scope of work is well organized into logical tasks and subtasks to complete a project.

ATTACHMENT 4

PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES AGREEMENT

AGREEMENT FOR PROFESSIONAL CONSTRUCTION MANAGEMENT SERVICES BETWEEN THE CITY OF CATHEDRAL CITY, CALIFORNIA AND

This Agreement for Professional Construction Management Services
("Agreement") is entered into as of
the City of Cathedral City, a municipal corporation ("City") and
a ("Consultant"). City and Consultant are sometimes hereinafte
individually referred to as "Party" and hereinafter collectively referred to as the "Parties."
RECITALS
A. City has sought, by Request for Proposals, the performance of Construction
Management services for [Project], City Project Number
, defined and described particularly in Section 2 of this Agreement.
B. Consultant, following submission of a proposal for the performance of the services defined and described particularly in Section 2 of this Agreement, was selected by the City to perform those services.
C. Consultant was selected by the City on the basis of Consultant's demonstrated competence and the professional qualifications necessary for the satisfactory performance of the services required.
D. Pursuant to the City of Cathedral City's Municipal Code, City has authority to enter into this Consultant Services Agreement and the City Manager has authority to execute this Agreement.
E. The Parties desire to formalize the selection of Consultant for performance of those services defined and described particularly in Section 2 of this Agreement and

OPERATIVE PROVISIONS

desire that the terms of that performance be as particularly defined and described herein.

NOW, THEREFORE, in consideration of the mutual promises and covenants made by the Parties and contained here and other consideration, the value and adequacy of which are hereby acknowledged, the Parties agree as follows:

SECTION 1. TERM OF AGREEMENT.

(a) Subject to the provisions of Section 28 "Termination of Agreement" of this Agreement, the Term of this Agreement is for years/months] commencing on the Effective Date, unless extended by contract amendment.

(b) Consultant is advised that any recommendation for award is not binding on City until the Agreement is fully executed and approved by City.

SECTION 2. SCOPE OF SERVICES & SCHEDULE OF PERFORMANCE.

- (a) <u>Scope of Services</u>. Consultant agrees to perform the services set forth in Exhibit "A" "Scope of Services" (hereinafter, the "Services") and made a part of this Agreement by this reference.
- (b) <u>Schedule of Performance</u>. The Services shall be completed pursuant to the schedule specified in Exhibit "A." Should the Services not be completed pursuant to that schedule, the Consultant shall be deemed to be in Default of this Agreement. The City, in its sole discretion, may choose not to enforce the Default provisions of this Agreement and may instead allow Consultant to continue performing the Services.

SECTION 3. ADDITIONAL SERVICES.

Consultant shall not be compensated for any work rendered in connection with its performance of this Agreement that are in addition to or outside of the Services unless such additional services are authorized in advance and in writing in accordance with Section 35 "Administration and Implementation" or Section 37 "Amendment" of this Agreement. If and when such additional work is authorized, such additional work shall be deemed to be part of the Services.

SECTION 4. SAFETY.

- (a) Consultant shall comply with OSHA regulations applicable to Consultant regarding necessary safety equipment or procedures. Consultant shall comply with safety instructions issued by City Safety Officer and other City representatives. Consultant personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- (b) Pursuant to the authority contained in Section 591 of the Vehicle Code, City has determined that such areas are within the limits of the project and are open to public traffic. Consultant shall comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. Consultant shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.
- (c) Any subcontract entered into as a result of this Agreement, shall contain all of the provisions of this Section.
- (d) Consultant must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

SECTION 5. COMPENSATION AND METHOD OF PAYMENT.

- (a) The method of payment for the Agreement will be based on actual cost plus a fixed fee. Subject to any limitations set forth in this Agreement, City agrees to reimburse Consultant for actual costs (including labor costs, employee benefits, travel, equipment rental costs, overhead, and other direct costs) incurred by Consultant in the performance of the work. Consultant will not be reimbursed for actual costs that exceed the estimated wage rates, employee benefits, travel, equipment rental, overhead, and other estimated costs specified in the approved Consultant's Cost Proposal, set forth in Exhibit "B" "Compensation" and made a part of this Agreement by this reference, unless additional reimbursement is approved in writing in accordance with Section 35 "Administration and Implementation" or Section 37 "Amendment" of this Agreement. In no event will Consultant be reimbursed for overhead costs at a rate that exceeds City's approved overhead rate set forth in the Cost Proposal. In the event that City determines that a change to the work from that specified in the Cost Proposal and contract is required, the Term of Agreement or actual costs reimbursable by City shall be adjusted in accordance with Section 37 "Amendment" to accommodate the changed work. The maximum total cost as specified in Paragraph "H" shall not be exceed, unless authorized by amendment.
- (b) In addition to the allowable incurred costs, City will pay Consultant a fixed fee amount of ______dollars (\$______). The fixed fee is nonadjustable for the Term of Performance, except in the event of a significant change in the scope of work and such adjustment is made in accordance with Section 37 "Amendment" of this Agreement.
- (c) Reimbursement for transportation and subsistence costs shall not exceed the rates specified in the approved Cost Proposal.
- (d) When milestone cost estimates are included in the approved Cost Proposal, Consultant shall obtain prior written approval for a revised milestone cost estimate in accordance with Section 35 "Administration and Implementation" of this Agreement before exceed such cost estimate.
- (e) Progress payments will be made monthly in arrears based on services provided and allowable incurred costs. A pro rata portion of Consultant's fixed fee will be included in the monthly progress payments. If Consultant fails to submit the required deliverable items according the schedule set forth in Section 2 of this Agreement, City shall have the right to delay payment or terminate this Agreement in accordance with Section 28 "Termination of Agreement" of this Agreement.
- (f) No payment will be made prior to approval of any work, nor for any work performed prior to approval of this Agreement.
- (g) Consultant will be reimbursed, as promptly as fiscal procedures will permit upon receipt of itemized invoices in triplicate in accordance with Section 35 "Administration and Implementation" of this Agreement. Invoices shall be submitted no later than forty-five (45) calendar days after the performance of work for which Consultant

is billing. Invoices shall detail the work performed on each milestone and each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference the City project number and title. Final invoice must contain the final cost and all credits due City including any equipment purchased under the provisions of Section 12 "Equipment Purchase" of this Agreement. The final invoice should be submitted within sixty (60) calendar days after completion of Consultant's work. Invoices shall be mailed to City as detailed in Section 33 "Notices" of this Agreement.

- (h) The total amount payable by City, including the fixed fee, shall not exceed dollars (\$______), unless additional compensation is approved in writing in accordance with Section 35 "Administration and Implementation" or Section 37 "Amendment" of this Agreement.
- (i) Salary increases will be reimbursable if the new salary is within the salary range identified in the approved Cost Proposal and is approved by City in accordance with Section 35 "Administration and Implementation" of this Agreement. For personnel subject to prevailing wage rates as described in the California Labor Code, all salary increases, which are the direct result of changes in the prevailing wage rates are reimbursable.

SECTION 6. COST PRINICPLES AND ADMINISTRATIVE REQUIREMENTS.

- (a) Consultant agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- (b) Consultant also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- (c) Any costs for which payment has been made to Consultant that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by Consultant to City.

SECTION 7. AUDIT REVIEW PROCEDURES.

- (a) Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by Agreement, shall be reviewed by City's Chief Financial Officer.
- (b) Not later than thirty (30) days after issuance of the final audit report, Consultant, may request a review by City's Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- (c) Neither the pendency of a dispute nor its consideration by City will excuse Consultant from full and timely performance, in accordance with the terms of this Agreement.

Consultant and subconsultant Agreements, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contact audit, and incurred cost audit, and ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the Agreement, Cost Proposal and ICR, and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review, it is Consultants responsibility to ensure federal, state, or local government officials are allowed fully access to the CPA's work papers including making copies as necessary. The contract, Cost Proposal, and ICR shall be adjusted by Consultant and approved by City to conform to the audit or review recommendations. Consultant agrees that individual terms of costs identified in the audit report shall be incorporated into the Agreement by this reference if directed by City at its sole discretion. Refusal by Consultant to incorporate audit or review recommendations, or to ensure that the federal, state, or local governments have access to CPA work papers, will be considered a breach of Agreement terms and cause for termination of the Agreement pursuant to Section 28 "Termination of Agreement" and disallowance of prior reimbursed costs.

SECTION 8. DISPUTES.

- (a) Any dispute, other than audit, concerning a question of fact arising under this Agreement that is not disposed of by agreement shall be decided by a committee consisting of City Manager and City Engineer, who may consider written or verbal information submitted by Consultant.
- (b) Not later than 30 days after completion of all work under the Agreement, Consultant may request review by City Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- (c) Neither the pendency of a dispute, nor its consideration by the committee will excuse Consultant from full and timely performance in accordance with the terms of this Agreement.

SECTION 9. SUBCONTRACTING.

- (a) Nothing contained in this Agreement or otherwise, shall create any contractual relation between City and any subconsultant(s), and no subcontract shall relieve Consultant of its responsibilities and obligations hereunder. Consultant agrees to be as fully responsible to City for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by Consultant. Consultant's obligation to pay its subconsultant(s) is an independent obligation from City's obligation to make payments to Consultant.
- (b) Consultant shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this Agreement shall be subcontracted without written authorization in accordance with Section 35

"Administration and Implementation" of this Agreement, except that, which is expressly identified in the approved Cost Proposal.

- (c) Consultant shall pay its subconsultants within ten (10) calendar days from receipt of such payment made to Consultant by City.
- (d) Any subcontracts in excess of \$25,000 entered into as a result of this Agreement shall contain all the provisions stipulated in this Agreement to be applicable to subconsultants.
- (e) Any substitution of subconsultant(s) must be approved in writing by City in accordance with Section 35 "Administration and Implementation" of this Agreement prior to the state of work by the subconsultant(s).

SECTION 10. RETENTION OF FUNDS.

- (a) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.
- (b) No retainage will be withheld by the City from progress payments due the Consultant. Retainage by Consultant or subconsultants is prohibited, and no retainage will be held by Consultant from progress due subconsultants. Any violation of this provision shall subject the violating Consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the Consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the Consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

SECTION 11. DISADVANTAGED BUSINESS ENTERPRISES (DBE).

- (a) This Agreement is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this Agreement will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- (b) The goal for DBE participation for this Agreement is 4.6%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto under Exhibit 2 "Consideration" and incorporated as part of the Agreement. If a DBE subconsultant is unable to perform, Consultant must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- (c) DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with

federal funds. Consultant or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. Consultant shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by Consultant to carry out these requirements is a material breach of this Agreement, which may result in the termination of this Agreement pursuant to Section 28 "Termination of Agreement" or such other remedy as City deems appropriate.

- (d) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this section.
- (e) A DBE firm may be terminated only with prior written approval from City and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting City consent for the termination, Consultant must meet the procedural requirements specified in 49 CFR 26.53(f).
- (f) A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the Agreement and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the, Agreement is commensurate with the work it is actually performing, and other relevant factors.
- (g) A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- (h) If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its Agreement with its own work force, or the DBE subcontracts a greater portion of the work of the Agreement than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- (i) Consultant shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.
- (j) Upon completion of the Agreement, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged

Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by Consultant or Consultant's authorized representative and shall be furnished to the City with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to Consultant when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the City.

(k) If a DBE subconsultant is decertified during the life of the Agreement, the decertified subconsultant shall notify Consultant in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Agreement, the subconsultant shall notify Consultant in writing with the date of certification. Any changes should be reported to City within 30 days.

SECTION 12. EQUIPMENT PURCHASE.

- (a) Prior authorization in writing, by City in accordance with Section 35 "Administration and Implementation" of this Agreement shall be required before Consultant enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or services. Consultant shall provide an evaluation of the necessity or desirability of incurring such costs.
- (b) For purchase of any item, service or consulting work not covered in the approved Cost Proposal and exceeding \$5,000 prior authorization by City in accordance with Section 35 "Administration and Implementation" of this Agreement; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- Any equipment purchased as a result of this Agreement is subject to the (c) following: "Consultant shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, City shall receive a proper refund or credit at the conclusion of the Agreement, or if the Agreement is terminated pursuant to Section 28 "Termination of Agreement" of this Agreement, Consultant may either keep the equipment and credit City in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established City procedures: and credit City in an amount equal to the sales price. If Consultant elects to keep the equipment, fair market value shall be determined at Consultant's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by City and Consultant, if it is determined to sell the equipment, the terms and conditions of such sale must be approved in advance by City." 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

SECTION 13. INSPECTION AND FINAL ACCEPTANCE.

Consultant and any subconsultant shall permit City, the state, and the FHWA if federal participating funds are used in this Agreement; to review and inspect the project activities and files at all reasonable times during the Term of Agreement including review and inspection on a daily basis. City shall reject or finally accept Consultant's work within sixty (60) days after submitted to City. City shall reject work by a timely written explanation, otherwise Consultant's work shall be deemed to have been accepted. City's acceptance shall be conclusive as to such work except with respect to latent defects, fraud and such gross mistakes as amount to fraud. Acceptance of any of Consultant's work by City shall not constitute a waiver of any of the provisions of this Agreement including, but not limited to, Section 24 "Indemnification" and Section 25 "Insurance."

SECTION 14. OWNERSHIP OF DOCUMENTS.

- (a) All original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents prepared, developed or discovered by Consultant in the course of providing the Services pursuant to this Agreement shall become the sole property of City and may be used, reused or otherwise disposed of by City without the permission of the Consultant. Upon completion, expiration or termination of this Agreement, Consultant shall turn over to City all such original maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files and other documents.
- (b) If and to the extent that City utilizes for any purpose not related to this Agreement any maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents prepared, developed or discovered by Consultant in the course of providing the Services pursuant to this Agreement, Consultant's guarantees and warranties in Section 17 "Standard of Performance; Familiarity With Work" of this Agreement shall not extend to such use of the maps, models, designs, drawings, photographs, studies, surveys, reports, data, notes, computer files, files or other documents.

SECTION 15. CONSULTANT'S BOOKS AND RECORDS.

(a) For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the Agreement pursuant to Government Code 8543.7, Consultant shall maintain any and all documents and records demonstrating or relating to Consultant's performance of the Services. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, or other documents or records evidencing or relating to work, services, expenditures and disbursements charged to City pursuant to this Agreement. Any and all such documents or records shall be maintained in accordance with generally accepted accounting principles and shall be sufficiently complete and detailed so as to permit an accurate evaluation of the services provided by Consultant pursuant to this Agreement. Any and all such documents or records shall be maintained for three (3)

years from the date of final payment under this Agreement and to the extent required by laws relating to audits of public agencies and their expenditures.

- (b) Any and all records or documents required to be maintained pursuant to this section shall be made available for inspection, audit and copying, at any time during regular business hours, upon request by City or its designated representative. Copies of such documents or records shall be provided directly to the City for inspection, audit and copying when it is practical to do so; otherwise, unless an alternative is mutually agreed upon, such documents and records shall be made available at Consultant's address indicated for receipt of notices in this Agreement. The state, State Auditor, City, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of Consultant and its certified public accountants (CPA) work papers that are pertinent to the Agreement and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.
- (c) Where City has reason to believe that any of the documents or records required to be maintained pursuant to this section may be lost or discarded due to dissolution or termination of Consultant's business, City may, by written request, require that custody of such documents or records be given to the City. Access to such documents and records shall be granted to City, as well as to its successors-in-interest and authorized representatives.

SECTION 16. NDEPENDENT CONTRACTOR.

- (a) Consultant is and shall at all times remain a wholly independent contractor and not an officer, employee or agent of City. Consultant shall have no authority to bind City in any manner, nor to incur any obligation, debt or liability of any kind on behalf of or against City, whether by contract or otherwise, unless such authority is expressly conferred under this Agreement or is otherwise expressly conferred in writing by City.
- (b) The personnel performing the Services under this Agreement on behalf of Consultant shall at all times be under Consultant's exclusive direction and control. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall have control over the conduct of Consultant or any of Consultant's officers, employees, or agents except as set forth in this Agreement. Consultant shall not at any time or in any manner represent that Consultant or any of Consultant's officers, employees, or agents are in any manner officials, officers, employees or agents of City.
- (c) Neither Consultant, nor any of Consultant's officers, employees or agents, shall obtain any rights to retirement, health care or any other benefits which may otherwise accrue to City's employees. Consultant expressly waives any claim Consultant may have to any such rights.

SECTION 17. STANDARD OF PERFORMANCE; FAMILIARITY WITH WORK.

(a) Consultant represents and warrants that it has the qualifications, experience and facilities necessary to properly perform the Services required under this

Agreement in a thorough, competent and professional manner. Consultant shall at all times faithfully, competently and to the best of its ability, experience and talent, perform all Services. In meeting its obligations under this Agreement, Consultant shall employ, at a minimum, generally accepted standards and practices utilized by persons engaged in providing services similar to the Services required of Consultant under this Agreement, and shall use such skill, prudence, and diligence as other members of Consultant's profession commonly possess and exercise. In addition to the general standards of performance set forth this section, additional specific standards of performance criteria may be set forth in Exhibit "A" "Scope of Work" that shall also be applicable to Consultants work under this Agreement. Where there is a conflict between a general and a specific standard of performance or performance criteria, the specific standard or criteria shall prevail over the general.

(b) Consultant warrants that (1) it has thoroughly investigated and considered the work to be performed, (2) it has investigated the issues, regarding the scope of services to be provided, (3) it has carefully considered how the work should be performed, and (4) it fully understands the facilities, difficulties and restrictions attending performance of the work under this Agreement.

SECTION 18. COMPLIANCE WITH APPLICABLE LAWS; PERMITS AND LICENSES.

Consultant shall keep itself informed of and comply with all applicable federal, state and local laws, statutes, codes, ordinances, regulations and rules in effect during the term of this Agreement. Consultant shall obtain any and all licenses, permits and authorizations necessary to perform the Services set forth in this Agreement. Neither City, nor any elected or appointed boards, officers, officials, employees or agents of City, shall be liable, at law or in equity, as a result of any failure of Consultant to comply with this section.

SECTION 19. STATE PREVAILING WAGE RATES.

- (a) Consultant shall comply with the State of California's General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- (b) Any subcontract entered into as a result of this Agreement, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Section.
- (c) When prevailing wages apply to the services described in Section 2 of this Agreement, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See http://www.dir.ca.gov.

SECTION 20. NONDISCRIMINATION.

Consultant shall not discriminate, in any way, against any person on the basis of race, color, religious creed, national origin, ancestry, sex, age, physical handicap, medical condition or marital status in connection with or related to the performance of this Agreement.

SECTION 21. CONFLICTS OF INTEREST.

- (a) Consultant covenants that neither it, nor any officer or principal of its firm, has or shall acquire any interest, directly or indirectly, which would conflict in any manner with the interests of City or which would in any way hinder Consultant's performance of the Services. Consultant further covenants that in the performance of this Agreement, no person having any such interest shall be employed by it as an officer, employee, agent or subcontractor without the express written consent of the City Manager. Consultant agrees to at all times avoid conflicts of interest or the appearance of any conflicts of interest with the interests of City in the performance of this Agreement.
- (b) City may determine that Consultant must disclose its financial interests by completing and filing a Fair Political Practices Commission Form 700, Statement of Economic Interests. If such a determination is made, Consultant shall file the subject Form 700 with the City Clerk's Office pursuant to the written instructions provided by the Office of the City Clerk within ten (10) days of the request.
- (c) City understands and acknowledges that Consultant is, as of the date of execution of this Agreement, independently involved in the performance of non-related services for other governmental agencies and private parties. Consultant is unaware of any stated position of City relative to such projects. Any future position of City on such projects shall not be considered a conflict of interest for purposes of this section.
- (d) City understands and acknowledges that Consultant will, perform non-related services for other governmental agencies and private parties following the completion of the Services under this Agreement. Any such future service shall not be considered a conflict of interest for purposes of this section.
- (e) Consultant shall disclose any financial, business, or other relationship with City that may have an impact upon the outcome of this Agreement, or any ensuing City construction project. Consultant shall also list current clients who may have a financial interest in the outcome of this Agreement, or any ensuing City construction project, which will follow.
- (f) Consultant hereby certifies that neither Consultant, its employees, nor any firm affiliated with Consultant providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this Agreement. An affiliated firm is one, which is subject to the control of the same persons through joint-ownership, or otherwise.

- (g) Consultant further certifies that neither Consultant, nor any firm affiliated with Consultant, will bid on any construction subcontracts included within the construction contract. Additionally, Consultant certifies that no person working under this Agreement is also employed by the construction contractor for any project included within this Agreement.
- (h) Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this Agreement shall have provided services on the design of any project included within this Agreement.

SECTION 22. REBATES, KICKBACKS, OR OTHER UNLAWFUL CONSIDERATION.

Consultant warrants that this Agreement was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any City employee. For breach or violation of this warranty, City shall have the right in its discretion; to terminate the Agreement without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

SECTION 23. CONFIDENTIAL INFORMATION; RELEASE OF INFORMATION.

- (a) All financial, statistical, personal, technical, or other data and information gained or work product produced by Consultant in performance of this Agreement shall be considered confidential, unless such information is in the public domain or already known to Consultant. Consultant shall not release or disclose any such information or work product to persons or entities other than City without prior written authorization from the City Manager, except as may be required by law.
- (b) Consultant, its officers, employees, agents or subcontractors, shall not, without prior written authorization from the City Manager or unless requested by the City Attorney of City, voluntarily provide declarations, letters of support, testimony at depositions, response to interrogatories or other information concerning the work performed under this Agreement. Response to a subpoena or court order shall not be considered "voluntary" provided Consultant gives City notice of such court order or subpoena.
- (c) If Consultant, or any officer, employee, agent or subcontractor of Consultant, provides any information or work product in violation of this Agreement, then City shall have the right to reimbursement and indemnity from Consultant for any damages, costs and fees, including attorney's fees, caused by or incurred as a result of Consultant's conduct.
- (d) Consultant shall promptly notify City should Consultant, its officers, employees, agents or subcontractors be served with any summons, complaint, subpoena, notice of deposition, request for documents, interrogatories, request for admissions or other discovery request, court order or subpoena from any party regarding this Agreement and the work performed thereunder. City retains the right, but has no obligation, to

represent Consultant or be present at any deposition, hearing or similar proceeding. Consultant agrees to cooperate fully with City and to provide City with the opportunity to review any response to discovery requests provided by Consultant. However, this right to review any such response does not imply or mean the right by City to control, direct, or rewrite said response.

- (e) Permission to disclose information on one occasion, or public hearing held by City relating to the Agreement, shall not authorize Consultant to further disclose such information, or disseminate the same on any other occasion.
- (f) Consultant shall not comment publicly to the press or any other media regarding the Agreement or City's actions on the same, except to City's staff, Consultant's own personnel involved in the performance of this Agreement, at public hearings or in response to questions from a Legislative committee.
- (g) Consultant shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this Agreement without prior review of the contents thereof by City, and receipt of City's written permission.
- (h) Any subcontract entered into as a result of this Agreement shall contain all of the provisions of this Section.

SECTION 24. INDEMNIFICATION.

- (a) Indemnification by Consultant. As provided under Civil Code Section 2782.8, Consultant shall indemnify, protect, defend and hold harmless City and any and all of its officials, employees and agents ("Indemnified Parties") from and against any and all claims. actions and proceedings (whether at law or equity, administrative or judicial), demands, orders, judgments, losses, liabilities, damages, costs and expenses, including attorney's fees and costs, (collectively "Claims") to the extent same arise out of, pertain to, or relate to the negligence, recklessness, or willful misconduct of the Consultant, its officers, agents, employees or sub-consultants (or any entity or individual that Consultant shall bear the legal liability thereof) in the performance of professional services under this Agreement, with the understanding that in the event Claims are found by the trier of fact to have been caused by the joint or concurrent negligence of the City and its contractors and Consultants, and Consultant, damages and expenses from both indemnity and duty to defend obligations shall be borne by each party in proportion to its negligence.
- (b) <u>Indemnification from Subcontractors</u>. Consultant agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this section from each and every sub-consultant, subcontractor or any other person or entity involved by, for, with or on behalf of Consultant in the performance of this Agreement naming the Indemnified Parties as additional indemnitees. In the event Consultant fails to obtain such indemnity obligations from others as required here, Consultant agrees to be fully responsible according to the terms of this section. Failure of City to monitor compliance with these requirements imposes no additional obligations on City and will in no way act

as a waiver of any rights hereunder. This obligation to indemnify and defend City as set forth herein is binding on the successors, assigns or heirs of Consultant and shall survive the termination of this Agreement or this section.

(c) <u>City's Negligence</u>. The provisions of this section do not apply to Claims occurring as a result of City's sole negligence. The provisions of this section shall not release City from liability arising from gross negligence or willful acts or omissions of City or any and all of its officials, employees and agents.

SECTION 25. INSURANCE.

Consultant agrees to obtain and maintain in full force and effect during the term of this Agreement the insurance policies set forth in Exhibit "C" "Insurance" and made a part of this Agreement. All insurance policies shall be subject to approval by City as to form and content. These requirements are subject to amendment or waiver if so approved in writing by the City Manager. Consultant agrees to provide City with copies of required policies upon request.

SECTION 26. ASSIGNMENT.

The expertise and experience of Consultant are material considerations for this Agreement. City has an interest in the qualifications and capability of the persons and entities who will fulfill the duties and obligations imposed upon Consultant under this Agreement. In recognition of that interest, Consultant shall not assign or transfer this Agreement or any portion of this Agreement or the performance of any of Consultant's duties or obligations under this Agreement without the prior written consent of the City. Any attempted assignment shall be ineffective, null and void, and shall constitute a material breach of this Agreement entitling City to any and all remedies at law or in equity, including termination of this Agreement pursuant to Section 28 "Termination of Agreement." City acknowledges, however, that Consultant, in the performance of its duties pursuant to this Agreement, may utilize subcontractors.

SECTION 27. CONTINUITY OF PERSONNEL.

Consultant shall make every reasonable effort to maintain the stability and continuity of Consultant's staff and subcontractors, if any, assigned to perform the Services. Consultant shall notify City of any changes in Consultant's staff and subcontractors, if any, assigned to perform the Services prior to and during any such performance. There shall be no change in Consultant's Project Management or members of the project team, as listed in the approved Cost Proposal without prior written approval by City pursuant to Section 35 "Administration and Implementation" of this Agreement.

SECTION 28. TERMINATION OF AGREEMENT.

(a) City may terminate this Agreement, with or without cause, at any time by giving thirty (30) days written notice of termination to Consultant. In the event such notice is given, Consultant shall cease immediately all work in progress.

- (b) Consultant may terminate this Agreement for cause at any time upon thirty (30) days written notice of termination to City.
- (c) If either Consultant or City fail to perform any material obligation under this Agreement, then, in addition to any other remedies, either Consultant, or City may terminate this Agreement immediately upon written notice.
- (d) Upon termination of this Agreement by either Consultant or City, all property belonging exclusively to City which is in Consultant's possession shall be returned to City. Consultant shall furnish to City a final invoice for work performed and expenses incurred by Consultant, prepared as set forth in Section 5 "Compensation and Method of Payment" of this Agreement. This final invoice shall be reviewed and paid in the same manner as set forth in Section 5 "Compensation and Method of Payment" of this Agreement.
- (e) City may terminate this Agreement with Consultant should Consultant fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, City may proceed with the work in any manner deemed proper by City. If City terminates this Agreement with Consultant, City shall pay Consultant the sum do to Consultant under this Agreement prior to termination, unless the cost of completion to City exceeds the funds remaining in the Agreement. In which case, the overage shall be deducted from any sum to Consultant under this Agreement, and the balance, if any shall be paid to Consultant upon demand.
- (f) In no event shall the maximum amount for which the City be liable if this Agreement is terminated exceed the total amount payable under Section 5 "Compensation and Method of Payment" of this Agreement.

SECTION 29. DEFAULT.

In the event that Consultant is in default under the terms of this Agreement, the City shall not have any obligation or duty to continue compensating Consultant for any work performed after the date of default. Instead, the City may give notice to Consultant of the default and the reasons for the default. The notice shall include the timeframe in which Consultant may cure the default. This timeframe is presumptively thirty (30) days, but may be extended, though not reduced, if circumstances warrant. During the period of time that Consultant is in default, the City shall hold all invoices and shall, when the default is cured, proceed with payment on the invoices. In the alternative, the City may, in its sole discretion, elect to pay some or all of the outstanding invoices during the period of default. If Consultant does not cure the default, the City may take necessary steps to terminate this Agreement under Section 28 "Termination of Agreement." Any failure on the part of the City to give notice of the Consultant's default shall not be deemed to result in a waiver of the City's legal rights or any rights arising out of any provision of this Agreement.

SECTION 30. EXCUSABLE DELAYS.

Consultant shall not be liable for damages, including liquidated damages, if any, caused by delay in performance or failure to perform due to causes beyond the control of

Consultant. Such causes include, but are not limited to, acts of God, acts of the public enemy, acts of federal, state or local governments, acts of City, court orders, fires, floods, epidemics, strikes, embargoes, and unusually severe weather. The term and price of this Agreement shall be equitably adjusted for any delays due to such causes.

SECTION 31. CLAIMS FILED BY CITYS CONSTRUCTION CONTRACTOR.

- (a) If claims are filed by City's construction contractor relating to work performed by Consultant's personnel, and additional information or assistance from Consultant's personnel is required in order to evaluate or defend against such claims; Consultant agrees to make its personnel available for consultation with City's construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- (b) Consultant's personnel that City considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from City. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for Consultant's personnel services under this Agreement.
- (c) Services of Consultant's personnel in connection with City's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this Agreement in order to resolve the construction claims.

SECTION 32. COOPERATION BY CITY.

All public information, data, reports, records, and maps as are existing and available to City as public records, and which are necessary for carrying out the Services shall be furnished to Consultant in every reasonable way to facilitate, without undue delay, the Services to be performed under this Agreement.

SECTION 33. NOTICES.

To City:

All notices required or permitted to be given under this Agreement shall be in writing and shall be personally delivered, or sent by telecopier or certified mail, postage prepaid and return receipt requested, addressed as follows:

City of Cathedral City

ro olig.	Attn: City Manager 68-700 Avenida Lalo Guerrero Cathedral City, CA 92234
To Consultant:	

Notice shall be deemed effective on the date personally delivered or transmitted by facsimile or, if mailed, three (3) days after deposit of the same in the custody of the United States Postal Service.

SECTION 34. AUTHORITY TO EXECUTE.

The person or persons executing this Agreement on behalf of Consultant represents and warrants that he/she/they has/have the authority to so execute this Agreement and to bind Consultant to the performance of its obligations hereunder.

SECTION 35. ADMINISTRATION AND IMPLEMENTATION.

This Agreement shall be administered and executed by the City Manager or his or her designated representative. The City Manager shall have the authority to issue interpretations and to make amendments to this Agreement, including amendments that commit additional funds, consistent with Section 37 "Amendment" and the City Manager's contracting authority under the Cathedral City Municipal Code.

SECTION 36. BINDING EFFECT.

This Agreement shall be binding upon the heirs, executors, administrators, successors and assigns of the Parties.

SECTION 37. AMENDMENT.

No amendment to or modification of this Agreement shall be valid unless made in writing and approved by the Consultant and by the City. The City Manager shall have the authority to approve any amendment to this Agreement if the total compensation under this Agreement, as amended, would not exceed the City Manager's contracting authority under the Cathedral City Municipal Code. All other amendments shall be approved by the City Council. The Parties agree that the requirement for written modifications cannot be waived and that any attempted waiver shall be void. Consultant shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been issued.

SECTION 38. WAIVER.

Waiver by any Party to this Agreement of any term, condition, or covenant of this Agreement shall not constitute a waiver of any other term, condition, or covenant. Waiver by any Party of any breach of the provisions of this Agreement shall not constitute a waiver of any other provision nor a waiver of any subsequent breach or violation of any provision of this Agreement. Acceptance by City of any work or services by Consultant shall not constitute a waiver of any of the provisions of this Agreement.

SECTION 39. LAW TO GOVERN; VENUE.

This Agreement shall be interpreted, construed and governed according to the laws of the State of California. In the event of litigation between the Parties, venue in

state trial courts shall lie exclusively in the County of Riverside, California. In the event of litigation in a U.S. District Court, venue shall lie exclusively in the Central District of California, in Riverside.

SECTION 40. ATTORNEYS FEES, COSTS AND EXPENSES.

In the event litigation or other proceeding is required to enforce or interpret any provision of this Agreement, the prevailing Party in such litigation or other proceeding shall be entitled to an award of reasonable attorney's fees, costs and expenses, in addition to any other relief to which it may be entitled.

SECTION 41. CONTINGENT FEE.

Consultant warrants, by execution of this Agreement that no person or selling agency has been employed, or retained, to solicit or secure this Agreement upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by Consultant for the purpose of securing business. For breach or violation of this warranty, City has the right to annul this Agreement without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

SECTION 42. PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING.

- (a) Consultant certifies to the best of his or her knowledge and belief that:
- (i) No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of Consultant to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
- (ii) If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; Consultant shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- (b) This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this

certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

(c) Consultant also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

SECTION 43. DEBARMENT AND SUSPENSION.

- (a) Consultant's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that Consultant has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to City.
- (b) Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining Consultant responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- (c) Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal Highway Administration.

SECTION 44. STATEMENT OF COMPLIANCE.

- (a) Consultant's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that Consultant has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- (b) During the performance of this Agreement, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair

Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Agreement by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.

- (c) Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation Title 49 Code of Federal Regulations, Part 21 Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.
- (d) Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

SECTION 45. NATIONAL LABOR RELATIONS BOARD CERTIFICATION.

In accordance with Public Contract Code Section 10296, Consultant hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against Consultant within the immediately preceding two-year period, because of Consultant's failure to comply with an order of a federal court that orders Consultant to comply with an order of the National Labor Relations Board.

SECTION 46. ENTIRE AGREEMENT.

This Agreement, including the attached Exhibits "A" through "C", is the entire, complete, final and exclusive expression of the Parties with respect to the matters addressed therein and supersedes all other agreements or understandings, whether oral or written, or entered into between Consultant and City prior to the execution of this Agreement. No statements, representations or other agreements, whether oral or written, made by any Party which are not embodied herein shall be valid and binding.

SECTION 47. SEVERABILITY.

If any term, condition or covenant of this Agreement is declared or determined by any court of competent jurisdiction to be invalid, void or unenforceable, the remaining provisions of this Agreement shall not be affected thereby and the Agreement shall be read and construed without the invalid, void or unenforceable provision(s).

CONFLICTING TERMS.

Except as otherwise stated herein, if the terms of this Agreement conflict with the terms of any Exhibit hereto, or with the terms of any document incorporated by reference into this Agreement, the terms of this Agreement shall control.

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement on the date and year first-above written.

CITY OF CATHEDRAL CITY	[CONSULTANT NAME]
Charles P. McClendon City Manager	By:
ATTEST:	
	By: Its:
Tracey Martinez City Clerk	
APPROVED AS TO FORM	
Eric S. Vail	
City Attorney	

NOTE:

CONSULTANT'S SIGNATURES SHALL BE DULY NOTARIZED, AND APPROPRIATE ATTESTATIONS SHALL BE INCLUDED AS MAY BE REQUIRED BY THE BYLAWS, ARTICLES OF INCORPORATION, OR OTHER RULES OR REGULATIONS APPLICABLE TO CONSULTANT'S BUSINESS ENTITY.

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

)

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFORNIA

COUNTY OF RIVERSIDE)
On	, 2019	
before me,		Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared		Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared		Name of Signer(s)
		who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.
		I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.
		WITNESS my hand and official seal.
		Signature of Nature D. J.P.
		Signature of Notary Public
		OPTIONAL
Though this section is optionareattachment of this form to a	al, completing the n unintended do	is information can deter alternation of the document or fraudulent ocument.
CAPACIT(IES) CLAIMED BY SIGNER(S)		(S) DESCRIPTION OF ATTACHED DOCUMENT
Signer's Name:		
Individual Corporate Officer		
Title	(s)	Title or Type of Document
Partner(s)	" Limited " General	
Attorney-In-Fact Trustee(s) Guardian/Conservator Other:		Number Of Pages
Signer is representing: lame Of Person(s) Or Entity(ies)		Date Of Document
		Signer(s) Other Than Named Above

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

ALL-PURPOSE ACKNOWLEDGMENT NOTARY FOR CALIFORNIA

STATE OF CALIFO		,	
On	, 2019	•	
before me,			
Date			Name And Title Of Officer (e.g. "Jane Doe, Notary Public")
personally appeared	u,		Name of Signer(s)
		person(s) instrumer same in his/her/th	ed to me on the basis of satisfactory evidence to be the whose name(s) is/are subscribed to the within and acknowledged to me that he/she/they executed the his/her/their authorized capacity(ies), and that by eir signature(s) on the instrument the person(s), or the on behalf of which the person(s) acted, executed the of.
			nder PENALTY OF PERJURY under the laws of the State nia that the foregoing paragraph is true and correct.
		WITNESS	S my hand and official seal.
			Signature of Notary Public
		OB.	TIONAL
		OP	HONAL
Though this section is eattachment of this fo			can deter alternation of the document or fraudulent
CAPACIT(IES) CLAIMED BY SIGNER(S)			DESCRIPTION OF ATTACHED DOCUMENT
Signer's Name:			
Individual Corporate Officer			
-	Title(s)		Title or Type of Document
Partner(s)	" Limited " General		
Attorney-In-Fact Trustee(s) Guardian/Conserv Other:	ator		Number Of Pages
			Date Of Document
Signer is representing: lame Of Person(s) Or Entity	/(ies)		
			Signer(s) Other Than Named Above

EXHIBIT "A" SCOPE OF SERVICES

EXHIBIT "B" COMPENSATION

EXHIBIT "C" INSURANCE

A. <u>Insurance Coverages</u>. Service Provider shall provide and maintain insurance, acceptable to the City, in full force and effect throughout the term of this Agreement, against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the Services by Service Provider, its agents, representatives or employees. Service Provider shall procure and maintain the following scope and limits of insurance:

Only the following "marked" requirements are applicable:

X Commercial General Liability (CGL): Insurance written on an occurrence basis to protect Service Provider and City against liability or claims of liability which may arise out of this Agreement in the amount of one million dollars (\$1,000,000) per occurrence and subject to an annual aggregate of two million dollars (\$2,000,000). Coverage shall be at least as broad as Insurance Services Office form Commercial General Liability coverage (Occurrence Form CG 0001). There shall be no endorsement or modification of the CGL limiting the scope of coverage for either insured vs. additional insured claims or contractual liability. All defense costs shall be outside the limits of the policy.

X Vehicle Liability Insurance: Vehicle liability insurance in an amount not less than \$1,000,000 for injuries, including accidental death, to any one person, and subject to the same minimum for each person, in an amount not less than one million dollars (\$1,000,000) for each accident, and property damage insurance in an amount of not less than one million dollars (\$1,000,000). A combined single limit policy with aggregate limits in an amount of not less than \$2,000,000 shall be considered equivalent to the said required minimum limits. Coverage shall be at least as broad as Insurance Services Office form number CA 0001 covering Automobile Liability, including code 1 "any auto" and endorsement CA 0025, or equivalent forms subject to the approval of the City.

X Workers' Compensation Insurance: Workers' Compensation insurance that includes a minimum of one million dollars (\$1,000,000) of employers' liability coverage. Service Provider shall provide an endorsement that the insurer waives the right of subrogation against the City and its respective elected officials, officers, employees, agents and representatives. In the event a claim under the provisions of the California Workers' Compensation Act is filed against City by a bona fide employee of Service Provider participating under this Agreement, Service Provider is to defend and indemnify the City from such claim.

X Professional Liability Insurance: Professional liability insurance appropriate to the Service Provider's profession in an amount not less than one million dollars \$1,000,000 per occurrence. This coverage may be written on a "claims made" basis, and must include coverage for contractual liability. The professional liability insurance required by this Agreement must be endorsed to be applicable to claims based upon.

arising out of or related to Services performed under this Agreement. The insurance must be maintained for at least three (3) consecutive years following the completion of Service Provider's services or the termination of this Agreement. During this additional three (3) year period, Service Provider shall annually and upon request of the City submit written evidence of this continuous coverage.

B. <u>Other Provisions</u>. Insurance policies required by this Agreement shall contain the following provisions:

1. All Coverages.

- a. Each insurance policy required by this Agreement shall be endorsed and state the coverage shall not be suspended, voided, cancelled by the insurer or either Party to this Agreement, reduced in coverage or in limits except after 30 days' prior written notice by certified mail, return receipt requested, has been given to City.
- b. Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII.

2. Commercial General Liability and Automobile Liability Coverages.

- a. City, and its respective elected and appointed officers, officials, and employees and volunteers are to be covered as additional insureds as respects: liability arising out of activities Service Provider performs; products and completed operations of Service Provider; premises owned, occupied or used by Service Provider; or automobiles owned, leased, hired or borrowed by Service Provider. The coverage shall contain no special limitations on the scope of protection afforded to City, and their respective elected and appointed officers, officials, or employees.
- b. Service Provider's insurance coverage shall be primary insurance with respect to City, and its respective elected and appointed, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by City, and its respective elected and appointed officers, officials, employees or volunteers, shall apply in excess of, and not contribute with, Service Provider's insurance.
- c. Service Provider's insurance shall apply separately to each insured against whom claim is made or suit is brought, except with respect to the limits of the insurer's liability.
- d. Any failure to comply with the reporting or other provisions of the insurance policies, including breaches of warranties, shall not affect coverage provided to City, and its respective elected and appointed officers, officials, employees or volunteers.

- e. The insurer waives all rights of subrogation against the City, its elected or appointed officers, officials, employees or agents.
- 3. <u>Workers' Compensation Coverage</u>. Unless the City Manager otherwise agrees in writing, the insurer shall agree to waive all rights of subrogation against City, and its respective elected and appointed officers, officials, employees and agents for losses arising from work performed by Service Provider.
- C. Other Requirements. Service Provider agrees to deposit with City, at or before the effective date of this Agreement, certificates of insurance necessary to satisfy City that the insurance provisions of this contract have been complied with. The City may require that Service Provider furnish City with copies of original endorsements effecting coverage required by this Exhibit "C". The certificates and endorsements are to be signed by a person authorized by that insurer to bind coverage on its behalf. City reserves the right to inspect complete, certified copies of all required insurance policies, at any time.
- 1. Service Provider shall furnish certificates and endorsements from each sub-contractor identical to those Service Provider provides.
- 2. Any deductibles or self-insured retentions must be declared to and approved by City. At the option of City, either the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects City or its respective elected or appointed officers, officials, employees and volunteers, or the Service Provider shall procure a bond guaranteeing payment of losses and related investigations, claim administration, defense expenses and claims.
- 3. The procuring of such required policy or policies of insurance shall not be construed to limit Service Provider's liability hereunder nor to fulfill the indemnification provisions and requirements of this Agreement.